



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

**TELECOMMUNICATIONS**

IN THE MATTER OF THE PETITION OF PUBLIC	)	ORDER
WIRELESS, INC. FOR APPROVAL TO PROVIDE	)	
LOCAL EXCHANGE AND INTEREXCHANGE	)	
TELECOMMUNICATIONS SERVICES THROUGHOUT	)	
THE STATE OF NEW JERSEY	)	DOCKET NO. TE09060468

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated June 12, 2009, Public Wireless, Inc. ("Petitioner" or "Public Wireless") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide facilities-based and resold competitive local exchange and interexchange telecommunications services throughout the State of New Jersey.

Petitioner has submitted its financial information under seal and has filed a Motion for Confidentiality along with a sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12.1 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Public Wireless is a privately owned company organized under the laws of the State of Delaware. Exa Ventures which holds 83% ownership in the company is the principal owner. The remaining 17% is owned by small investors all of whom have less than 10% ownership interest in the company. Exa Ventures is a venture capital investment firm specializing in information technology, semiconductors, communications, multimedia technology/services/content, software and incubation of early stage technology companies. Public Wireless was initially incorporated on September 22, 2003 as Amber Telecommunications, Inc. The company filed a Certificate of Amendment of Amended and Restated Certificate of Incorporation on June 27, 2005 and changed its name to Amber Networks, Inc. On September 4, 2007, the company again filed a Certificate of Amendment of its Amended and Restated Certificate of Incorporation changing its name to Public Wireless. Petitioner's principal offices are located at 1325 McCandless Drive, Building A, Milpitas, California 95035.



Petitioner has submitted copies of its Amended and Restated Certificate of Incorporation, a Certificate of Good Standing from the State of Delaware and its New Jersey Certificate of Authority to operate as a Foreign Corporation. Petitioner is not currently authorized to provide local exchange or interexchange telecommunications services by any State but has applications pending in California, Florida, Georgia, Hawaii, Illinois, Massachusetts and Pennsylvania. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings. The company does not currently have an interconnection agreement with incumbent local exchange carriers ("ILEC") because it does not offer switched access voice service to either residential or business customers. Applicant states that it does not need to interconnect with the public switch telephone network to provide its services; therefore it has not negotiated an interconnection agreement with ILECs.

Petitioner seeks authority to provide facilities-based and resold competitive local exchange, transport, and interexchange telecommunications services to both residential and business customers in the State of New Jersey. Petitioner initially will deploy its networks by using a combination of its own equipment and services purchased from other telecommunications companies and reselling them to wireless carriers. Petitioner will provide its services using backhaul linked by fiber optic cables with conversion equipment attached to poles, wires, fiber termination equipment and other structures and also install and operate equipment to support backhaul services for wireless voice service providers. Petitioner's services are designed in part to use wire-line telecommunications to fill in gaps in wireless coverage without requiring the construction of large towers. Petitioner does not initially intend to provide voice services to end-use-subscribers, however should it do so in the future, it will provide either directly or through arrangements with other local exchange carriers 911 and E911, relay, directory assistance and access to operator and non-discriminatory interconnection services. Pursuant to N.J.A.C. 14:10-5.6(b), Petitioner has filed an initial tariff under Docket No. TT09060480 which will become effective 30 days after the Board approves its petition for local exchange and interexchange authority. Petitioner maintains a toll-free number for customer service inquiries.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located in Milpitas, California. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.



With regard to its technical and managerial qualifications, Public Wireless states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel, who, according to Public Wireless, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

## **DISCUSSION**

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. §253(a).

Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. §253(c).

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Public Wireless' Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout the State of New Jersey.

The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52 the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively.

The Board HEREBY ORDERS that:

- 1) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 2) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

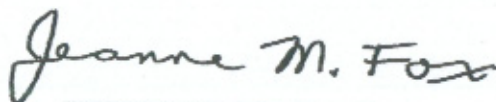


On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

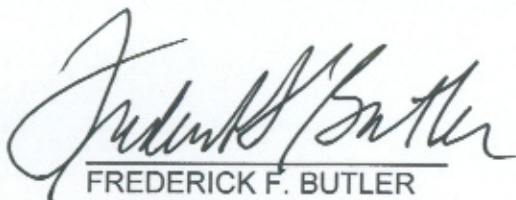
Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 9/16/09

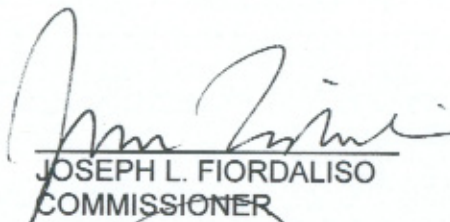
BOARD OF PUBLIC UTILITIES  
BY:



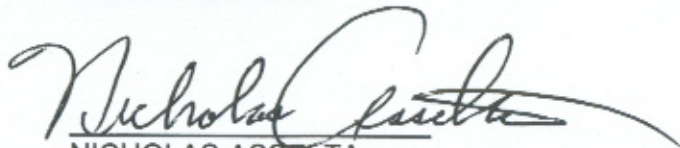
JEANNE M. FOX  
PRESIDENT



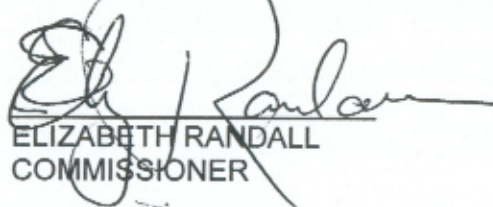
FREDERICK F. BUTLER  
COMMISSIONER



JOSEPH L. FIORDALISO  
COMMISSIONER



NICHOLAS ASSELTA  
COMMISSIONER

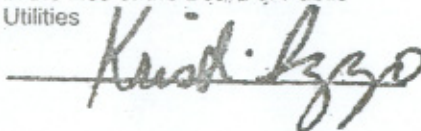


ELIZABETH RANDALL  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



IN THE MATTER OF THE PETITION OF PUBLIC WIRELESS, INC. FOR AUTHORITY TO  
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES IN THE STATE OF NEW JERSEY

DOCKET NO. TE09060468

SERVICE LIST

**Petitioner's Contact Person:**

Macario Turqueza  
Chief Financial Officer and Regulatory  
Contact  
Public Wireless, Inc.  
1325 McCandless Drive, Building A  
Milpitas, California 95035

**Petitioner's Attorney:**

Robert D. Balin, Esq.  
Davis Wright Tremaine, LLP  
Attorneys at Law  
1633 Broadway, 27<sup>th</sup> Floor  
New York, New York 10019

**Public Advocate:**

Stefanie A. Brand, Esq., Director  
Division of Rate Counsel  
Department of Public Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
PO Box 46005  
Newark, New Jersey 07101

**Deputy Attorney General:**

Jessica Campbell, DAG  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
PO Box 45029  
Newark, New Jersey 07102

**Board's Staff:**

Dennis J. Moran, Director  
Division of Audits  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Anthony Centrella, Director  
Division of Telecommunications  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102